

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
BATESVILLE DIVISION**

**CLAUDE B. OAKLEY
ADC #108541**

PLAINTIFF

v.

No: 1:19-cv-00047 KGB-PSH

JOHNSON, *et al.*

DEFENDANTS

PROPOSED FINDINGS AND RECOMMENDATION

INSTRUCTIONS

The following Recommendation has been sent to United States District Judge Kristine G. Baker. You may file written objections to all or part of this Recommendation. If you do so, those objections must: (1) specifically explain the factual and/or legal basis for your objection; and (2) be received by the Clerk of this Court within fourteen (14) days of this Recommendation. By not objecting, you may waive the right to appeal questions of fact.

DISPOSITION

Plaintiff Claude B. Oakley filed a *pro se* complaint pursuant to 42 U.S.C. § 1983 on June 12, 2019 (Doc. No. 2). On June 13, 2019, the Court granted Oakley's application to proceed *in forma pauperis* and ordered him to file an amended complaint within 30 days. *See* Doc. No. 4. Oakley was cautioned that failure to file an amended complaint within that time could result in the dismissal of his case, without prejudice, pursuant to Local Rule 5.5(c)(2).

More than 30 days have passed, and Oakley has not complied with the June 13 order. Accordingly, the Court finds that this action should be dismissed without prejudice for failure to comply with Local Rule 5.5(c)(2) and failure to respond to the Court's order. *See Miller v. Benson*,

51 F.3d 166, 168 (8th Cir. 1995) (District courts have inherent power to dismiss *sua sponte* a case for failure to prosecute, and exercise of that power is reviewed for abuse of discretion).

It is therefore recommended that Oakley's complaint (Doc. No. 2) be dismissed without prejudice.

DATED this 18th day of July, 2019.

A handwritten signature in black ink, consisting of a stylized 'D' followed by a horizontal line and a small flourish.

UNITED STATES MAGISTRATE JUDGE